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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,741	02/27/2004	Paul Bosivert	P2146US	8408
7590	08/15/2005		EXAMINER	
Jack Schwartz & Associates 1350 Broadway, Suite 1510 New York, NY 10018-7702			PHILLIPS, CHARLES E	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 08/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	BOSIVERT, PAUL	
10/789,741		
Examiner Charles E. Phillips	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 7-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_ is/are allowed.  
6) Claim(s) \_\_\_\_ is/are rejected.  
7) Claim(s) \_\_\_\_ is/are objected to.  
8) Claim(s) 7-20 are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 7-9, drawn to toilet, classified in class 004, subclass 420.
- II. Claim 10, drawn to a system for hanging a toilet, classified in class 004, subclass 252.2.
- III. Claims 11-16, drawn to flush valve, classified in class 004, subclass 378.
- IV. Claim 17, drawn to a flushing mechanism, classified in class 004, subclass 378.
- V. Claims 18-20, drawn to a floor anchor, classified in class 004, subclass 252.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, III and II, IV, V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, each can be used in the absence of the other has. See MPEP § 806.05(d).

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the ball etc. is not required by the former. The subcombination has separate utility such as absent the particulars of claim 1.

Because these inventions are distinct for the reasons given above and the search required for each Group is not required for the other Group, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication should be directed to Charles E. Phillips at telephone number 571-272-4893.

  
Charles E. Phillips  
Primary Examiner